

ORIGINAL

DANIEL E. LUNGREN, Attorney General
of the State of California
JANA L. TUTON, Supervising
Deputy Attorney General
GAIL M. HEPPELL,
Deputy Attorney General
1515 K Street, Suite 511
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5336

Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

No. D-4700

GILBERT RAY SAINZ, M.D.
3220 American River Dr.
Sacramento, CA 95825
Physician's and Surgeon's
Certificate No. C31264

STIPULATION, DECISION
AND ORDER

Respondent.

IT IS HEREBY STIPULATED by the parties to the above-
entitled matter that the following is true:

1. Gilbert Ray Sainz, M.D. (hereinafter "respondent")
was issued Physician's and Surgeon's Certificate number C31264 by
the Board. At all times pertinent herein, said certificate was
and currently is in full force and effect.

2. On or about March 31, 1992, an accusation bearing
number D-4700 was filed by Kenneth J. Wagstaff, Executive
Director of the Medical Board of California (hereinafter "Board")
in his official capacity. Said accusation listed causes for
disciplinary action against respondent, and said accusation is
incorporated by reference as though fully set forth at this

1 point. Respondent was duly and properly served with accusation
2 number D-4700 by certified mail, and respondent filed a timely
3 Notice of Defense requesting a hearing on the charges contained
4 in the accusation.

5 3. Respondent has retained as his counsel Richard K.
6 Turner, Esq. Respondent has fully discussed with his counsel the
7 charges and allegations of violations of the California Business
8 and Professions Code alleged in accusation number D-4700 and has
9 been fully advised of his rights under the Administrative
10 Procedure Act of the State of California. Said rights include
11 his rights to a formal hearing and opportunity to defend against
12 the charges contained therein, reconsideration and of any adverse
13 decision that might be rendered following said hearing. Said
14 respondent knowingly and intelligently waives his rights to a
15 hearing, reconsideration, appeal and to any and all other rights
16 which may be accorded to him pursuant to the Administrative
17 Procedure Act regarding the charges contained in accusation
18 number D-4700 subject to the provisions of paragraph 6 herein.

19 4. Respondent admits the following:

20 A. In 1975, patient Cynthia K. began seeing
21 respondent at his office at Kaiser Permanente in Sacramento for
22 allergy problems. She was 21 years old. Over the next few years
23 she continued to see the respondent for allergy problems.

24 B. In or about 1981 or 1982, she began having
25 problems with her husband (who was becoming increasingly
26 disabled) and became severely depressed. She confided in
27 respondent who comforted her. She began seeing respondent

1 approximately three (3) times a week for her depression.
2 Initially, respondent comforted her by listening to her,
3 prescribing antidepressant medication, and holding her.
4 Gradually, the physical contact became more sexual in nature. In
5 or about December 1982 or January 1983, they went to bed together
6 for the first time. From approximately 1983 to June 1985, they
7 had sexual relations at Kaiser Hospital and Clinic, at motels in
8 the Sacramento area, and at her home. During the time she was
9 having sexual relations with respondent, respondent continued to
10 prescribe antidepressant medication and treat her on a regular
11 basis as an allergy patient at Kaiser.

12 C. The facts admitted in paragraphs 4A and 4B
13 constitute unprofessional conduct and grounds for disciplinary
14 action as set forth in Business and Professions Code section 726.

15 5. It is stipulated and agreed by and between the
16 parties that the admissions herein are deemed true only for the
17 purpose of (1) this proceeding, (2) any other proceeding before
18 the Board, and (3) or any action taken by or before any
19 governmental body responsible for licensing physicians.

20 6. In the event that this Stipulation, Decision and
21 Order is not accepted and adopted by the Medical Board of
22 California, the stipulations and characterizations of law and
23 fact made by all parties herein shall be null, void, and
24 inadmissible in any proceeding involving the parties to it.

25 WHEREFORE, it is stipulated that the Medical Board of
26 California may issue the following Decision and Order:

27 ///

1 Physician's and Surgeon's Certificate number C31264
2 issued to respondent Gilbert Ray Sainz, M.D. is revoked.
3 However, revocation is stayed and respondent is placed on
4 probation for seven (7) years on the following terms and
5 conditions:

6 1. Within thirty (30) days of the effective date of
7 this decision, and on a periodic basis thereafter as may be
8 required by the Division or its designee, respondent shall
9 undergo a psychiatric evaluation (and psychological testing, if
10 deemed necessary) by a Division-appointed psychiatrist who shall
11 furnish a psychiatric report to the Division or its designee.

12 If respondent is required by the Division or its
13 designee to undergo psychiatric treatment, respondent shall
14 within thirty (30) days of the requirement notice submit to the
15 Division for its prior approval the name and qualifications of a
16 psychiatrist of respondent's choice. Upon approval of the
17 treating psychiatrist, respondent shall undergo and continue
18 psychiatric treatment until further notice from the Division.
19 Respondent shall have the treating psychiatrist submit quarterly
20 status reports to the Division.

21 2. Respondent is prohibited from engaging in solo
22 practice.

23 3. Respondent is prohibited from obtaining new
24 employment unless prior approval has been given by the Board.
25 Respondent is currently working as a physician for the State
26 Correctional System. Employment at a State Correctional Facility
27 is approved by the Board.

1 4. Respondent shall have a third party present while
2 examining or treating female patients.

3 5. Respondent shall notify his current employer and
4 all future employers of the terms and conditions of his
5 probation.

6 6. Within 60 days of the effective date of this
7 decision, respondent shall submit to the Division for its prior
8 approval a course in Ethics, which respondent shall successfully
9 complete during the first year of probation.

10 7. Respondent shall obey all federal, state, and
11 local laws, and all rules governing the practice of medicine in
12 California.

13 8. Respondent shall submit quarterly declarations
14 under penalty of perjury on forms provided by the Division,
15 stating whether there has been compliance with all conditions of
16 probation.

17 9. Respondent shall comply with the Division's
18 probation surveillance program.

19 10. Respondent shall appear in person for interviews
20 with the Division's medical consultant upon request at various
21 intervals and with reasonable notice.

22 11. Respondent shall be prohibited from supervising
23 physician's assistants during the period of probation.

24 12. The period of probation shall not run during the
25 time respondent is residing or practicing outside the juris-
26 diction of California. If, during probation, respondent moves
27 out of the jurisdiction of California to reside or practice

1 elsewhere, respondent is required to immediately notify the
2 Division in writing of the date of departure, and the date of
3 return, if any.

4 13. Upon successful completion of probation,
5 respondent's certificate will be fully restored.

6 14. If respondent violates probation in any respect,
7 the Division, after giving respondent notice and the opportunity
8 to be heard, may revoke probation and carry out the disciplinary
9 order that was stayed. If an accusation or petition to revoke
10 probation is filed against respondent during probation, the
11 Division shall have continuing jurisdiction until the matter is
12 final, and the period of probation shall be extended until the
13 matter is final.

14 DANIEL E. LUNGREN, Attorney General
15 of the State of California

16 DATED: 1/24/93

17 By Gail M. Heppell
18 GAIL M. HEPPELL
19 Deputy Attorney General

20 Attorneys for Complainant

21 RICHARD K. TURNER

22 DATED: 9.21.93

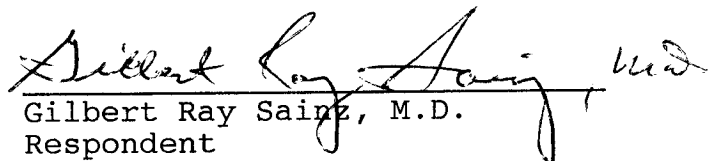
23 By Richard K. Turner
24 RICHARD K. TURNER

25 Attorney for Respondent

26 I HAVE READ the Stipulation, Decision, and Order. I
27 understand that I have the right to a hearing on the charges
28 contained in the accusation, the right to cross-examine
29 witnesses, and the right to introduce evidence in mitigation. I

1 knowingly and intelligently waive all of these rights, and
2 understand that by signing this stipulation, I am permitting the
3 Medical Board of California to discipline my license. I under-
4 stand the terms and ramifications of the Stipulation, Decision,
5 and Order and agree to be bound by its terms.

6 DATED: 9/13/93.

7
8 
9 Gilbert Ray Sainz, M.D.
Respondent

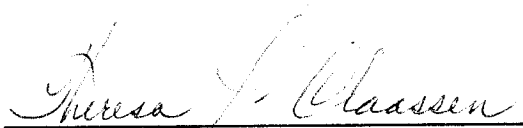
10
11 DECISION

12 The stipulation is hereby adopted by the Division of
13 Medical Quality of the Medical Board of California as its
14 decision in the above-entitled matter.

15 This Decision shall become effective on December 31,
16 1993.

17 IT IS SO ORDERED December 1, 1993.

18 DIVISION OF MEDICAL QUALITY
19 MEDICAL BOARD OF CALIFORNIA

20 By: 
21 THERESA L. CLAASSEN
22 Secretary/Treasurer
23
24
25
26
27

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JANA L. TUTON, Supervising
Deputy Attorney General
3 GAIL M. HEPPELL
Deputy Attorney General
4 1515 K Street, Suite 511
P.O. Box 944255
5 Sacramento, California 94244-2550
Telephone: (916) 324-5336

6 Attorneys for Complainant

7
8 BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DIVISION OF MEDICAL QUALITY
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

10 In the Matter of the Accusation) No. D-4700
11 Against:)
12 GILBERT RAY SAINZ, M.D.) ACCUSATION
3220 American River Drive)
13 Sacramento, CA 95825)
Physician's and Surgeon's)
14 Certificate No. C31264)
15 Respondent.)
16

17 Kenneth J. Wagstaff, alleges as follows:

18 1. He is the Executive Director of the Medical Board
19 of California (hereinafter "Board") and makes and files this
20 Accusation solely in his official capacity.

21 2. On July 8, 1969, respondent Gilbert Ray Sainz,
22 M.D., (hereinafter "respondent") was issued Physician's and
23 Surgeon's Certificate number C31264 by the Board. At all times
24 mentioned herein, said certificate was in full force and effect.

25 3. Sections 2220 and 2234 of the Business and
26 Professions Code (hereinafter "Code") provide, in pertinent part,
27 that the Division of Medical Quality may take action against the

1 holder of a Physician's and Surgeon's Certificate who is guilty
2 of unprofessional conduct.

3 4. Section 726 of the Code provides, in part, that
4 the commission of any act of sexual abuse, misconduct, or
5 relations with a patient which is substantially related to the
6 qualifications, functions or duties of a physician and surgeon
7 constitutes grounds for discipline.

8 5. Respondent is subject to disciplinary action
9 pursuant to Code section 726 in that he is guilty of engaging in
10 sexual misconduct and/or relations with a patient as follows:

11 A. In 1975, patient Cynthia K. began seeing
12 respondent at his office at Kaiser Permanente in Sacramento for
13 allergy problems. She was 21 years old. Over the next few years
14 she continued to see the respondent for allergy problems.

15 B. In or about 1981 or 1982, she began having problems
16 with her husband (who was becoming increasingly disabled) and
17 became severely depressed. She confided in respondent who
18 comforted her. She began seeing respondent approximately three
19 (3) times a week for her depression. Initially, respondent
20 comforted her by listening to her and holding her. Gradually,
21 the physical contact became more sexual in nature. In or about
22 December 1982 or January 1983, they went to bed together for the
23 first time. From approximately October 1984 to June 1985, they
24 had sexual relations at Kaiser Hospital and Clinic, at motels in
25 the Sacramento area, and at her home. During the time she was
26 having sexual relations with respondent, she was also seeing him
27 on a regular basis as an allergy patient at Kaiser.

WHEREFORE, complainant prays that the Division of Medical Quality hold a hearing on the matters alleged herein and, following said hearing, issue a decision:

1. Suspending or revoking Physician's and Surgeon's
Certificate number C31264 heretofore issued to respondent
Gilbert Ray Sainz, M.D.;

2. Prohibiting respondent from supervising physician's assistants;

3. Taking such other and further action as the Division deems necessary and proper.

DATED: March 31, 1992 .

KENNETH J. WAGSTAFF
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant